

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

April Adriana Fox,

Plaintiff,

File No: 1:16-cv-1467

vs

Blue Cross Blue Shield of MI Mutual Ins. Co
Defendant.

Timothy A. O'Rourke (P32443)
Attorney for Plaintiff
TIMOTHY A. O'ROURKE, PLLC
422 W. Lenawee
Lansing, MI 48933
PH: (517) 372-2900

COMPLAINT

NOW COMES Plaintiff, April Fox by and through her attorney, Timothy A. O'Rourke, and states as a Complaint in the above-entitled cause of action, the following:

1. Plaintiff (whose Social Security Number is XXX-XX-7766) is a resident of the City of Lansing, County of Ingham, State of Michigan.

2. Plaintiff was the beneficiary of a policy providing disability insurance benefits as a benefit of employment, and includes the following identifying information:

A. Employer: Blue Cross/Blue Shield Assoc.

B. Defendant's Claim No: 13-01205-01

3. Plaintiff has been denied benefits under the policy wrongfully, and contrary to the terms and provisions contained therein.

4. Plaintiff has exhausted all appeals provided by said company, and the only remaining avenue of redress is the filing of the within cause of action.

5. Jurisdiction is granted this Court as a federal Question, under the provisions of the Employees Retirement Income Security Act (ERISA).

6. The following circumstances require consideration in adjudicating this matter:

- A. The defendant accepts a premium to insure the payment of disability benefits, and is directly and financially affected by the payment of such benefits, and is not a "trustee" of benefits funds belonging to another party;
- B. Defendant obtains a financial benefit through the elimination or denial of the payment of claims such as that denied this Plaintiff; and,
- C. The insurance policy under which benefits are being paid does not provide for the delegation of authority to defendant as the sole determiner of claims in a clear and express manner.

WHEREFORE, Plaintiff seeks judicial review by this Court and the entry of a Judgment for such relief as may be proper, specifically including an award of past due benefits; ongoing benefits; as well as costs, interest, and reasonable attorney fees.

Respectfully submitted,

Dated: December 29, 2016

/s/

Timothy A. O'Rourke (P32443)

Attorney for Plaintiff

422 W. Lenawee

Lansing, MI 48933

PH: (517) 372-2900